



Important Information About Your Liquor License

Attached are two important notices about proposed rule changes that could directly affect your business:

- **Questions about the potential economic impact of a proposed rule change.**
- **Copy of proposed rule changes for your review and comment.**

Your input is important to this process. Please take a few moments to review the enclosed materials.

Thank you.



Survey Regarding Economic Impact of Proposed Rule Making

The Liquor Control Board is in the beginning stages of rule making to consider changes to rules regarding requirements for restaurant liquor licensees. Please see attached for a preliminary draft of these changes.

State law requires agencies to complete a small business economic impact statement for proposed rules that may potentially have a financial impact on small businesses. The intent of this study is to "reduce the disproportionate impact of state administrative rules on small businesses."



We are asking for your help to determine the potential economic impact of one of these proposed changes. **This change would affect liquor licensees that begin or continue live entertainment after 10 p.m. and allow minors.**

Please return the attached survey by October 25, 2004.

- Attached is a self-addressed, prepaid envelope.
- You can also fax the survey to 360-753-2710.

If you have any questions about this survey or would like an electronic copy, please contact Karen McCall at 360-664-1631 or e-mail kjm@liq.wa.gov.

Thank you for your time and participation.

Survey Regarding Economic Impact of Proposed Rule Making

The following contact information is optional. If you choose not to list this information, we would appreciate it if you would list the city or town your business is in: _____

Name of business: _____

Liquor license no.: _____

Contact person: _____ Title: _____

Daytime telephone number: _____

PROPOSED RULE CHANGE:

Current	Proposed
Currently businesses that begin or continue live entertainment after 10 p.m. have to create an alcohol-free zone for minors (persons under 21) after 10 p.m. This area has to be separated from the rest of the premises with a barrier at least 42" high.	Under the proposed rule, your business would be required to completely separate minors. <ul style="list-style-type: none">▪ Minors would have to be restricted to an area of the premises that is separated by full walls from any area where alcohol is served or consumed.▪ This area would need to have a separate entrance and exit so that minors do not have to pass through areas where alcohol is consumed.

SURVEY QUESTIONS:

1. Does your business begin or continue live entertainment after 10:00 p.m.? (live entertainment includes live music, DJs, dancing, Karaoke, comedy acts, etc.).
☐ yes ☐ no (If no, the rest of this survey does not apply to you, but please send in this portion so we can assess how many licensees have live music.)
2. Do you allow minors in your business after 10 p.m. when there is live entertainment?
☐ yes ☐ no (If no, the rest of this survey does not apply to you, but please send in this portion so we can assess how many licensees have live music after 10.)

3. Please describe your business *after 10 p.m. when you have live entertainment*:
- My alcohol-free zone for minors is separated from other areas by the following type of barrier:
 - ☐ Rope and stanchion
 - ☐ Half wall
 - ☐ Full wall
 - ☐ Other--Please describe _____
 - What percentage of your patrons are minors?
 - ☐ Less than 10%
 - ☐ 10% - 25%
 - ☐ 25% - 50%
 - ☐ 50% - 75%
 - ☐ More than 75%

4. If the rule change described on page 2 was passed, would this impose any additional costs on your business? ☐ yes ☐ no

If yes:

a) Please describe the nature of these costs:

b) Please list an approximate dollar amount of these costs:

c) How much time do you think you would need to make changes to your business to comply with the changes described on page 2?

- ☐ 1 - 3 months
- ☐ 3 - 6 months
- ☐ 6 - 9 months
- ☐ Other _____

5. If the rule change described on page 2 was passed, do you anticipate that your business would lose any revenue? ☐ yes ☐ no

If yes:

a) Please describe why and how revenue would be lost:

b) Please list an approximate dollar amount of the anticipated lost revenue:

6. If you answered "yes" to question 5, would revenue loss be lessened by the fact that other businesses like yours would have to meet the same requirements?

☐ yes ☐ no

a) If yes, please describe in what way revenue loss might be lessened:

b) If no, please describe why you do not think revenue loss would be lessened:

7. In order for us to assess if you are considered a small business according to state law, please tell us if you have:

☐ 50 or less employees

☐ More than 50 employees

8. Please indicate any other comments that you have:

Thank you for your time and participation.



Proposed Rule Changes

The Liquor Control Board is in the beginning stages of rule making to consider changes to rules regarding requirements for on-premises liquor licensees. Please see attached for a preliminary draft of these changes.

The Board has not approved these rules for filing. Rather, we are gathering input on this preliminary draft. If the Board proceeds with this rule making, you will receive another notice and the agency will hold public hearings.

Please forward your comments to the Liquor Control Board by **October 25, 2004**.

By mail: Rules Coordinator
Liquor Control Board
PO Box 43080
Olympia WA 98504-3080

By e-mail: rules@liq.wa.gov

By fax: 360-704-4921

SUMMARY OF RULE CHANGES

1. **Revise the "10 p.m. policy" and place it into rule form (as described in the economic impact survey).** For businesses that begin or continue live entertainment after 10 p.m. with alcohol service, instead of allowing minors and adults to be in the same area of the business separated by a 42" barrier, the agency would require complete separation of minors. This requirement would mean that minors would have to be restricted to an area of the premises that is separated by full walls from any area where alcohol is served or consumed. This area would need to have a separate entrance and exit so that minors do not have to pass through areas where alcohol is consumed.
2. **Place barrier requirement policy into rule form.** The agency is proposing to place a current policy regarding barriers into rule. The policy requires that barriers be fixed as opposed to moveable. If this rule were passed, we would continue to allow restaurants previously approved for moveable barriers to keep them until they remodel or change ownership.

3. **Place “primary entrance” policy into rule form.** The agency is proposing to place a current policy into rule that requires restaurants that allow minors to have their floor plans set up so that minors can access non-restricted areas of the premises and restrooms without passing through restricted areas. The policy states that a business’ primary entrance must open directly into a dining area, or to a neutral area such as a lobby that leads to the dining area.
4. **Further define terms including “dedicated dining area, “food counters,” liquor bars,” and “game rooms.”** By law, the fee for a spirits, beer, and wine restaurant license is based on a businesses’ percentage of dedicated dining area. The agency would like to better define what qualifies as “dedicated dining area.”

Also, the agency would like to clear up confusion about bars. What most people typically think of as a “bar” is only allowed in a lounge. However, service bars and food counters are allowed in dining areas where minors are permitted.

5. **Reference a law passed during the 2003 session** that allows spirits, beer, and wine restaurant licensees to sell their own private label wine to-go.
6. **Delete a current policy about game rooms.** A current policy states that, after 10 p.m., restaurants with game rooms must either:
 - Discontinue liquor service in the game room in order to continue to allow minors in the game room after 10 p.m.; or
 - Restrict the game room from minors in order to continue liquor service in the game room after 10 p.m.

The agency is considering deleting this policy. The policy was based on the concept that game rooms can be closed-off areas where licensees, employees, and officers may not be able to properly monitor youth access to alcohol. However, this policy causes confusion among licensees, LCB officers, and local law enforcement.

The agency is considering replacing this policy with a general guideline in another chapter of rules, “General requirements for liquor licensees,” that licensees and employees must have visual access to areas where liquor is sold and consumed so they can monitor alcohol service (minor’s access, apparent intoxication, etc.).

7. **Clarify meal service requirements for spirits, beer, and wine restaurants.** The Liquor Control Board is proposing to revise a rule to state that spirits, beer, and wine restaurants must serve at least four complete meals during the times listed in the rule. The current rule causes confusion because it requires licensees to serve at least five complete meals, but states that one of the meals can be a sandwich or deep fried food--effectively requiring four complete meals.

This is a preliminary working draft of proposed rule language for comment purposes only. This proposed language has not been approved by the Liquor Control Board Members for filing.

Proposed Revised Rules--Changes to existing rules are indicated by underlining and ~~strikethrough~~. The notes in boxes on the left explain the proposed changes.

WAC 314-02-010 Definitions. The following definitions are to clarify the purpose and intent of the rules and laws governing liquor licenses and permits. Additional definitions can be found in RCW 66.04.010.

(1) "Banquet room" means any room used primarily for the sale and service of food and liquor to private groups.

(2) "Bar" means the following:

Define service bars, food counters, liquor bars, and game rooms. For two reasons:

1) Service bars and food counters are allowed in dining areas where minors are permitted, while "liquor bars" are only allowed in lounges.

2) By law, the fee for a spirits, beer, and wine restaurant license is based on a businesses' percentage of dedicated dining area, thus we need to define what qualifies as "dedicated dining area."

	<u>Allowed in areas where minors are permitted?</u>
<u>(a) A "service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.</u>	<u>yes</u>
<u>(b) A "food counter" means a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service.</u>	<u>yes</u>
<u>(c) A "liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.</u>	<u>no</u>

~~((2))~~ (3) "Customer service area" means areas where food and/or ~~(liquor)~~ alcohol are normally sold and served to the public, i.e., lounges and dining areas. A banquet room is not considered a customer service area.

~~((3))~~ (4) "Dedicated dining area." In order for an area to qualify as a dedicated dining area, it must be a distinct portion of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. See WAC 314-02-025 for more information.

(5) "Food counter." See "bar."

(6) "Game room" means an area of a business set up for the primary purpose of patrons using games or gaming devices.

~~((4))~~ (7) "Liquor" means beer, wine, or spirits, per RCW 66.04.010(19) - Definitions.

~~((5))~~ (8) "Lounge" means the portion of a restaurant used primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge (see RCW 66.44.316 for information on employees and professional musicians under twenty-one years of age).

(9) "Minor" means a person under twenty-one years of age.

WAC 314-02-015 What is a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.400, this license allows a restaurant to:

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Implement a law passed during the 2003 session that allows spirits, beer, and wine restaurant licensees to sell their private label wine to-go.

- (a) Serve spirits by the individual serving for on-premises consumption;
 - (b) Serve beer by the bottle or can or by tap for on-premises consumption; and
 - (c) Serve wine for on-premises consumption (see RCW 66.24.400 regarding patrons removing recorked wine from the premises).
- (2) Per RCW 66.24.400(1), this license prohibits licensees from selling alcohol for off-premises consumption; except that, per RCW 66.24.400(2), a spirits, beer, and wine restaurant licensee that has endorsement from the board may sell for off-premises consumption wine vinted and bottled in the state of Washington that has a label exclusive to the licensed restaurant.
- (3) All applicants for a spirits, beer, and wine license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant. The term "bona fide restaurant" is defined in RCW 66.24.410(2).

WAC 314-02-020 What are the fee categories for a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.420, the annual fee for a spirits, beer, and wine restaurant license is graduated, as follows:

Amount of customer service area dedicated to dining	Annual fee
100%	\$1,000
50 - 99%	\$1,600
Less than 50%	\$2,000

(2) In order for an area to qualify as a dedicated dining area it must be a separate and distinct portion of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. Dedicated dining areas may not contain:

- (a) liquor bars (see definition in WAC 314-02-010(2);
- (b) areas dedicated to live music or entertainment, such as dance floors or stages; or
- (c) areas dedicated to games or gaming devices.

(3) The fee for a spirits, beer, and wine restaurant license outside of an incorporated city or town will be prorated according to the calendar quarters the licensee is open for business. This proration does not apply in the case of a suspension or revocation of the license.

(4) A duplicate license is required in order to sell liquor from more than one site on your property. These sites must be located on the same property and owned by the same licensee. The following types of businesses may apply for a duplicate license:

Type of Business	Annual fee per duplicate license
Airport terminal	25% of annual license fee
Civic center (such as a convention center)	\$10
Privately owned facility open to the public	\$20

WAC 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license? RCW 66.44.310(2) states that the liquor control board has the responsibility to classify what licensed

See note on page 1

To clarify purpose of rules.

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premises or what portions of licensed premises are off-limits to minors. RCW 66.44.290 and RCW 66.44.310 state that minors may not purchase, possess, or consume liquor, and may not enter any areas that are classified as off-limits to minors. The purpose of this rule is to establish a tool to prevent minors from entering restricted areas or from consuming liquor.

Revising 10 p.m. policy and placing into rule form.

Instead of allowing an alcohol-free zone for minors that is separated with a 42" barrier, this proposal requires complete separation of minors.

(1) **Dedicated dining areas** - If a spirits, beer, and wine restaurant licensee or a beer and wine restaurant licensee that allows minors wishes to have live music, Karaoke, patron dancing, live entertainment, or contests involving physical participation by patrons in the premises after 10 p.m., the licensee must either:

(a) prohibit minors from the entire premises; or

(b) restrict minors to an area of the premises that is completely separate and has no alcohol service or consumption. "Completely separate" means the area is separated by full walls and has a separate entrance and exit than any area where alcohol is serve or consumed.

((4)) (2) **Barriers** - Licensees must place ~~((identifiable))~~ barriers around game rooms and areas that are ~~((restricted from persons under twenty one years of age))~~ classified as off-limits to minors. ~~((("Minor prohibited" signs, as required by WAC 314-16-025, must be posted at each entrance to such areas.))~~

(a) The barriers must be substantial, must clearly separate restricted areas, and must be at least 42 inches high.

(b) The barriers must be permanently affixed (folding or retractable doors or other barriers that are permanently affixed are acceptable). Those licensees that have been approved by the board for moveable barriers prior to the effective date of this rule may keep their movable barriers until the next time the licensee remodels or the premises changes ownership.

(c) Liquor bars cannot be used as the required barriers (see definition of liquor bar in WAC 314-02-010(2)).

(d) Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.

(e) "Minor prohibited" signs, as required by WAC 314-11-060(1), must be posted at each entrance to restricted areas.

(3) If the business allows minors, the business' primary entrance must open directly into a dedicated dining area or into a neutral area, such as a lobby or foyer, that leads directly to a dedicated dining area. Minors must be able to access restrooms without passing through a lounge or other age-restricted area.

((2)) (4) **Floor plans** - When applying for a license, the applicant must provide ~~((to))~~ the board's licensing and regulation division two copies of a detailed drawing of the entire premises. The drawing must:

(a) Be drawn one foot to one-quarter-inch scale;

(b) Have all rooms labeled according to their use; e.g., dining room, lounge, game room, kitchen, etc.; and

(c) Have all barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

Move language from WAC 314-16-196. Place current policy into rule, which requires that barriers be fixed as opposed to moveable. Put in "grandfather"

Place current policy into rule regarding primary entrance and minors not passing through restricted areas.

WAC 314-02-030 Can a spirits, beer, and wine restaurant exclude persons under twenty-one years of age from the premises? A spirits, beer, and wine restaurant licensee may exclude ~~((persons under twenty one years of age))~~ minors from the entire premises at all times or at certain times as approved by the board.

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(1) To exclude ~~((persons under twenty-one years of age))~~ minors from the entire licensed premises at all times or at certain times, the applicant or licensee must:

(a) ~~((i))~~ Indicate during the liquor license application process that he/she does not wish to have ~~((persons under twenty-one years of age))~~ minors on the entire premises at ~~((any time))~~ all times or at certain times indicated by the applicant or licensee; or

(b) ~~((i))~~ If already licensed as a spirits, beer, and wine restaurant that allows ~~((persons under twenty-one years of age))~~ minors, the applicant may request permission from the board's licensing and regulation division to exclude ~~((persons under twenty-one years of age))~~ minors all times or at certain times indicated by the applicant or licensee~~((:))~~. ~~((per))~~ See WAC 314-02-130 for instructions on requesting this approval .

(c) Spirits, beer, and wine restaurant licensees who exclude ~~((persons under twenty-one years of age))~~ minors from the entire premises at all times must or at certain times~~((:~~

~~_____ (i) place the required barriers around dedicated dining areas (see WAC 314-02-025(1); and~~

~~_____ (ii))~~ meet all other requirements of this license, including the food service requirements outlined in WAC 314-02-035.

~~_____ (d) During the times that a spirits, beer, and wine restaurant licensee excludes minors from the entire premises, the licensee may not employ persons under twenty-one years of age (see WAC 314-11-040 for more information on employing minors).~~

(2) Restaurants that have less than fifteen percent of their total customer service area dedicated to dining must exclude ~~((persons under twenty-one years of age))~~ minors from the entire premises. The licensee must:

(a) Pay the two thousand dollars annual license fee; and

(b) Meet all other requirements of this license, including the food service requirements outlined in WAC 314-02-035.

~~(((3) To exclude persons under twenty-one years of age from the entire licensed premises during a portion of the day or week or on a one-time-only basis, the applicant or licensee must:~~

~~_____ (a) request permission from the board, see WAC 314-02-130(1); and~~

~~_____ (b) meet all other requirements of the license, including the food service requirements outlined in WAC 314-02-035.))~~

~~(((4)))~~ (3) See WAC ~~((314-16-025))~~ 314-11-060(1) regarding requirements for "minors prohibited" signage.

Existing requirement in another rule, cross-referenced for clarity.

Proposed New WAC 314-02-033 Do spirits, beer, and wine restaurants that exclude minors from the premises have to put barriers around their dedicating dining area(s)? Spirits, beer, and wine restaurant licensees who exclude minors from the entire premises at all times are only required to place the barriers described in WAC 314-02-025(2) around dedicated dining areas for the purpose of paying the lesser \$1,600 annual fee. Restaurants that do not allow minors at any time and do not wish to have barriers around their dining area(s) must pay the \$2,000 annual licensee fee. See WAC 314-02-020 for an explanation of fees.

Existing practice, added for clarity.

WAC 314-02-035 What are the food service requirements for a spirits, beer, and wine restaurant license? (1) A spirits, beer, and wine restaurant licensee must serve at least four complete meals. Per RCW 66.24.410(2), a complete meal does not include hamburgers, sandwiches, salads, or fry orders. For the purposes of this title:

Move language from WAC 314-16-190.

Require four complete meals instead of 5 with an exception causes confusion.

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(a) a “complete meal” means an entrée and at least one additional course; and

(b) an “entrée” means the main course of a meal. To qualify as one of the four required complete meals, the entrée must require the use of a dining implement to eat, and cannot consist of a hamburger, sandwich, salad, or fry order.

~~((4))~~ (2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required by RCW 66.24.410(2) and WAC ~~((314-16-190))~~ 314-02-035.

~~((2))~~ (3) The complete meals must be prepared on the restaurant premises.

(3) A chef or cook must be on duty while complete meals are offered.

(4) A menu must be available to customers that lists, at a minimum, the required complete meals.

(5) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(6) Restaurants that have one hundred percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(7) Restaurants with less than one hundred percent dedicated dining area (restaurants in the one thousand six hundred dollar or two thousand dollar fee category) must maintain complete meal service for a minimum of five hours a day on any day liquor is served. The board may consider written requests for exceptions to this requirement due to demonstrated hardship, under such terms and conditions as the board determines are in the best interest of the public.

Puts existing practice of considering exceptions into rule.

(a) Minimum food service, such as sandwiches, hamburgers, or fry orders, must be available outside of these hours.

(b) Snacks such as peanuts, popcorn, and chips do not qualify as minimum food service.

(8) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. If applicable, a statement that minimum food service is available outside of those hours must also be posted or listed on the menu.

WAC 314-02-045 What is a beer and/or wine restaurant license? (1) Per RCW 66.24.320 and 66.24.354, this license allows a restaurant to:

Privilege	Annual fee
(a) Serve beer by the bottle or can or by tap for on-premises consumption.	\$200
(b) Serve wine for on-premises consumption (see RCW 66.24.320 regarding patrons removing recorked wine from the premises).	\$200
(c) Sell beer and/or wine in the original, unopened containers for off-premises consumption.	\$120
(d) Sell tap beer for off-premises consumption in a sanitary container holding less than four gallons of beer, and brought to the premises by the purchaser.	In conjunction with off-premises privilege outlined in subsection (c).
(e) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-115 regarding the requirements for registering kegs).	In conjunction with off-premises privilege outlined in subsection (c).

(2) All applicants for a beer and/or wine restaurant license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant, as defined in RCW 66.04.010~~((29))~~ (30).

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(3) If a beer and/or wine restaurant's dedicated dining area comprises less than fifteen percent of the total customer service area, the premises must maintain a tavern license (see WAC 314-02-070 regarding the tavern license).

WAC 314-02-055 Can a beer and/or wine restaurant exclude ((~~persons under twenty-one years of age~~)) minors from the dining area? (1) To exclude ((~~persons under twenty-one years of age~~)) minors from the dining area during a portion of the day or week or on a one-time-only basis, the applicant or licensee must request permission from the board (see WAC 314-02-130(1)).

(2) See WAC ((~~314-16-025~~)) 314-11-060(1) regarding requirements for "minors prohibited" signage.